

## **TITLE 2. CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM**

### **NOTICE OF PROPOSED REGULATORY ACTION**

NOTICE IS HEREBY GIVEN that the Board of Administration (Board) of the California Public Employees' Retirement System (CalPERS) proposes to take the regulatory action described below after considering public comments, objections, or recommendations.

#### **I. PROPOSED REGULATORY ACTION**

In this filing, the Board proposes to amend section 575.1 entitled, "Deposit of Contributions", and section 575.2 entitled, "Deposit of Contributions Pursuant to Government Code Section 21073.1", in Title 2 of the California Code of Regulations. The proposed regulatory amendments would clarify the interest rates to be used for installment payments by members purchasing various types of service credit from CalPERS or with member contribution adjustments.

#### **II. WRITTEN COMMENT PERIOD**

Any interested person may submit written comments relevant to the proposed regulatory action. The written comment period closes at 5:00 pm on February 6, 2006. The Acting Regulations Coordinator must receive all written comments by the close of the comment period. Comments may be submitted via fax at (916) 795-3379; e-mail at the following address: [joe\\_parilo@calpers.ca.gov](mailto:joe_parilo@calpers.ca.gov); or mail to the following address:

Joe Parilo, Acting Regulations Coordinator  
California Public Employees' Retirement System  
400 Q Street, Room W2580  
P.O. Box 942702  
Sacramento, California 94229-2702

Telephone: (916) 795-3484

#### **III. PUBLIC HEARING**

Comments on the proposed actions will also be taken at a public hearing to be placed on the agenda of the regularly scheduled meeting of the Benefits and Program Administration Committee of the CalPERS Board of Administration:

March 14, 2006  
9:00 a.m.  
California Public Employees' Retirement System  
Auditorium, 400 Q Street, Sacramento, California 95814

#### IV. ACCESS TO HEARING ROOM

The hearing room will be accessible to persons with mobility impairments, and can be made accessible to persons with hearing or vision impairments upon advance request to the Acting Regulations Coordinator.

#### V. AUTHORITY AND REFERENCE

The CalPERS Board of Administration has general authority under Government Code sections 20120 and 20121 to manage and control CalPERS, make rules, and take regulatory action.

Government Code section 20750 contains authority for the Board to charge the “member interest crediting rate” for a member’s election to redeposit previously withdrawn contributions pursuant to Government Code section 20178.

The Board has express authority to adopt and amend the provisions of CCR section 575.2, under the provisions of Government Code section 21073.1.

Government Code section 21073.1 also exempts this proposed regulatory amendment to CCR section 575.2 from review by the Office of Administrative Law.

#### VI. INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

##### Proposed Amendment to CCR Section 575.1

Government Code section 20750 authorizes CalPERS members to elect and make lump sum or installment payments to purchase qualifying service credit periods by redepositing previously withdrawn member contributions, plus interest. This section also provides that members be charged the member interest crediting rate (currently 6%, compounded annually) in effect at the time of the member’s election throughout the installment payment period to purchase the service credit. The member interest crediting rate has been statutorily set at 6% since 1991, under Government Code section 20178.

With the exception of Government Code section 20750 for redeposit payments, the interest rate to be used for the other types of member service credit purchases through installment payments is not specified by law or regulation. Historically, the installment interest rate charged by CalPERS for the other types of service credit purchases has also been the member interest crediting rate in effect at the effective date of the member’s election to purchase the service credit. However, the Board in March 2004 decided that service credit types calculated pursuant to section 21052, requiring the member to pay an amount “...equal to the increase in employer liability...”, were intended to be cost neutral to the employer. This is accomplished by establishing that the installment payment interest rate charged to

members be equal to the “actuarial interest rate” (currently 7.75%) that is used to calculate actuarially the benefit liability. (Using instead the 6% member interest crediting rate would not meet the objective of cost neutrality to the employer, due to this difference in interest rates causing a gap in funding the full benefit liability.)

CCR section 575.1 implements, interprets and makes specific various conditions under which an eligible member may purchase such service credit by making installment payments to CalPERS, but does not specify the interest rate to be applied during the period of installment payments. CCR section 575.1 authorizes members to purchase such service credit subject to the existing installment payment requirements (a) through (c), which do not make any reference to “interest rate”.

The proposed amendment to CCR section 575.1, by adding the proposed subsections (d), (e), and (f) would establish by regulation the installment payment interest rates which CalPERS applies to such member service credit purchases and contribution adjustments. The minor revision to other language in section 575.1 makes language more consistent in CCR sections 575.1 and 575.2. This amendment would also establish by regulation the interest rates for specified Judges’ Retirement System and Judges’ Retirement System II service credit purchases made pursuant to Government Code sections 75030.8 and 75506.5.

The proposed CCR subsection 575.1(d) would establish that, except as provided in subsections (e) and (f), for service credit purchases and contribution adjustments subject to CCR section 575.1, the interest applied on the unpaid balance shall be the interest rate (the member interest crediting rate, currently 6% compounded annually) provided in Government Code section 20178 on the effective date of the member’s service credit election or contribution adjustment. This interest rate shall apply from the effective date of the service credit election or contribution adjustment through the completion of payments.

The proposed CCR subsection 575.1(e) would establish that, for service credit purchases subject to Government Code section 21052, the interest applied on the unpaid balance shall be the actuarial interest rate (currently 7.75%) used in the calculation of the benefit liability. This interest rate shall apply from the effective date of the service credit election or contribution adjustment through the completion of payments.

The proposed CCR subsection 575.1(f) would establish that for judges’ service credit purchases subject to Government Code sections 75030.8 and 75506.5, the interest applied on the unpaid balance shall be the actuarial interest rate (currently 7.75%) used in the calculation of the benefit liability. This interest rate shall apply from the effective date of the service credit election or contribution adjustment through the completion of payments.

An additional paragraph is added to clarify that the interest will accrue as if the applicable rate remained in effect throughout the period of the member's installment payments and until the completion of payments.

#### Proposed Amendment to CCR Section 575.2

Government Code section 21073.1(a) authorizes CalPERS members who elect to convert from State Second Tier retirement benefits to the State First Tier retirement benefits, pursuant to Government Code section 21073.7, to purchase the past credited service as First Tier service on an installment basis as prescribed by regulations of the Board, but does not specify the interest rate to be applied during the member's period of installment payments. Government Code section 21073.1(b) authorizes the Board to adopt regulations implementing this process and, as stated above, exempts such proposed regulations from review by the Office of Administrative Law.

The interest rate to be charged members during installment payment periods for this conversion of CalPERS service credit from State Second Tier to the State First Tier is also not specified by law or regulation. Historically, the installment interest rate charged by CalPERS for this type of service credit conversion has also been the member interest crediting rate in effect on the effective date of the member's election, which since 1991 has been 6%, compounded annually.

CCR section 575.2 implements, interprets and makes specific Government Code section 21073.1 by authorizing CalPERS members converting from State Second Tier to the State First Tier to purchase the past service as First Tier service, subject to the existing installment payment requirements (a) through (c) which do not make any reference to "interest rate".

The proposed amendment to CCR section 575.2 would establish as CalPERS regulation in proposed subsection (d) that, for State First Tier service credit conversions pursuant to Government Code section 21073.1, the interest applied on the unpaid balance shall be the interest rate (member interest crediting rate, currently 6% compounded annually) provided in Government Code section 20178 in effect on the effective date of the member's election to deposit contributions.

Consistent with the proposed amendment to section 575.1, an additional paragraph is added to clarify that interest will accrue as if the applicable rate remained in effect throughout the period of the member's installment payments and until the completion date of payments.

## VII. EFFECT ON SMALL BUSINESS

The proposed regulatory action does not affect small business because it applies only to state, school, and public agency members' participation in the retirement

program administered under the Public Employees' Retirement Law, the Judges' Retirement Law, and the Judges' Retirement System II Law.

#### VIII. DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

- A. MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS: The proposed regulatory action does not impose a mandate on local agencies or school districts.
- B. COST OR SAVINGS TO ANY STATE AGENCY: The proposed regulatory action does not impact costs or savings for any state agency.
- C. COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT: The proposed regulatory action does not impact costs or savings for any local agency or school district, such that costs would qualify for reimbursement under Government Code section 17500, et seq.
- D. NONDISCRETIONARY COSTS OR SAVINGS IMPOSED ON LOCAL AGENCIES: The proposed regulatory action does not impose non-discretionary costs or savings on local agencies.
- E. COSTS OR SAVINGS IN FEDERAL FUNDING TO THE STATE: The proposed regulatory action does not impact any federal funding to the state.
- F. ADVERSE ECONOMIC IMPACT: The proposed regulatory action has no significant adverse economic impact on industry, including the ability of business in California to compete with business in other states.
- G. COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES: CalPERS is not aware of any cost impacts that representative private persons or businesses would necessarily incur due to the proposed regulatory action.
- H. IMPACT ON JOBS AND BUSINESSES WITHIN CALIFORNIA: The proposed regulatory action will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.
- I. EFFECT ON HOUSING COSTS: The proposed regulatory action has no effect.

#### IX. CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board

would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the above mentioned hearing or during the written comment period.

#### X. CONTACT PERSONS

Please direct inquiries concerning the substance of the proposed regulatory action to:

Thomas R. French  
Office of Policy and Program Development  
California Public Employees' Retirement System  
400 P Street  
Sacramento, California 95814

Telephone: (916) 795-3172  
Fax: (916) 795-2292  
E-mail: [tom\\_french@calpers.ca.gov](mailto:tom_french@calpers.ca.gov)

Please direct requests concerning processing of this regulatory action to Joe Parilo, Acting CalPERS Regulations Coordinator, at (916) 795-3484 ([joe\\_parilo@calpers.ca.gov](mailto:joe_parilo@calpers.ca.gov)), or Barbara Galli, backup CalPERS Regulations Coordinator, at (916) 795-4098 ([barbara\\_galli@calpers.ca.gov](mailto:barbara_galli@calpers.ca.gov)).

#### XI. AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The entire rulemaking file is available for public inspection through the Acting Regulations Coordinator at the address shown above. To date the file consists of this notice, the proposed text of the regulation, and the Initial Statement of Reasons (ISR). A copy of the proposed text and the ISR is available at no charge upon telephone or written request to the Acting Regulations Coordinator.

The Final Statement of Reasons can be obtained, once it has been prepared, by written request to Joe Parilo, Acting Regulations Coordinator, at the address shown in Section II.

For immediate access, the regulatory material regarding this action is available at CalPERS On-line at ([www.calpers.ca.gov](http://www.calpers.ca.gov)) under:

**About CalPERS> Legislation, Regulations and Statutes> Regulatory Actions.**

## XII. AVAILABILITY OF MODIFICATIONS TO PROPOSED AMENDMENT

The Board may, on its own motion or at the recommendation of any interested person, modify the proposed amendment to the regulation after the public comment period has closed. It may amend CCR sections 575.1 or 575.2 as modified if the changes are sufficiently related to the original text so the public could have anticipated them.

If the Board modifies its regulatory action in this manner, it will prepare a comparison of the original proposed text and the modifications for an additional public comment period of not less than 15 days prior to the date on which the Board adopts, amends or repeals the resulting regulation. A copy of the comparison text will be mailed to all persons who submitted written comments, who testified or submitted written comments at the public hearing, or asked to be kept informed as to the outcome of this regulatory action.